IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 24TH SEPTEMBER 2007 / 2ND ASWINA 1929

Bail Appl..No. 5750 of 2007()

CRIME NO. 151/07 OF KELAKAM POLICE STATION

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PETITIONER/ACCUSED

THANKACHAN PUTHENPURYKKAL, @ CHACKO,
S/O.VARGHESE, 43 YEARS, PUTHENPURYKKAL,
KOTTIYOOR AMSOM, DESOM, THALASSERY TALUK.

BY ADV. SRI.SUNIL NAIR PALAKKAT
SRI.K.N.ABHILASH

RESPONDENTS: COMPLAINANT/STATE

STATE OF KERALA, REPRESENTED BY
S.H.O. KELAKAM POLICE STATION,
KELAKAM.
(THROUGH PUBLIC PROSECUTOR OF THE
HIGH COURT OF KERALA).

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 24/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 5750 of 2007

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Dated this the 24th day of September, 2007

O R D E R

Application for anticipatory bail. The petitioner is the husband of the defacto complainant. He faces allegations, inter alia, under Sections 323 and 498A I.P.C. The crime has been registered. Investigation is in progress.

2. The marriage between the spouses had taken place on 4.10.2004. No children are born in the wedlock. Both spouses were earlier married and this was their second marriage. They have children in their earlier marriages. The petitioner apprehends imminent arrest.

3. The learned counsel for the petitioner submits that the allegations are totally false. There is strain in the matrimonial relationship. Because of such strain, fanciful allegations are being raised. There was an incident between the brother of the petitioner and the brother of the defacto complainant. Apprehending that the brother of the petitioner may initiate criminal prosecution against the brother of the defacto complainant, a totally false allegation has

been raised before the doctor that the brother of the petitioner had assaulted the defacto complainant. That allegation is totally false and was only a retaliation against the petitioner. It is, in these circumstances, prayed that anticipatory bail may be granted to the petitioner.

4. Notice was given to the learned Prosecutor. He does not oppose the application. He confirms that to the doctor the allegation was only that the brother of the petitioner had assaulted the defacto complainant. She had not suffered any injury corresponding to the alleged physical cruelty meted out to her by the petitioner. In these circumstances the State has no objection in granting anticipatory bail to the petitioner, submits the learned Prosecutor.

5. Having considered all the relevant inputs, I find merit in the prayer for anticipatory bail. I am satisfied that subject to appropriate conditions, anticipatory bail can be granted to the petitioner.

6. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioner shall surrender before the learned Magistrate on 1.10.2007 at 11 a.m. The learned Magistrate shall release the petitioner on

regular bail on condition that he executes a bond for Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 2.10.07, and 3.10.2007 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioner does not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 1.10.07 and the police shall be at liberty thereafter to arrest the petitioner and deal with him in accordance with law.

(d) If the petitioner were arrested prior to his surrender on 1.10.2007 as directed in clause (1) above, he shall be released on bail on his executing a bond for Rs.25,000/- without any surety undertaking to appear before the learned Magistrate on 1.10.2007.

(R. BASANT)
Judge

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